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6 Attorneys for Defendants
7 and Unifund CCR Partners and
Steven A. Booska
8

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA

11
12 JASON E. DAVIS,

13 Plaintiff,

14 vs.
15

16 UNIFUND CCR PARTNERS, a
17 corporation; STEVEN A. BOOSKA,
an individual; and DOES 1 through 10
18 inclusive,

19 Defendants.
20

CASE NO.: 3:07-CV-01767 SI

**REQUEST FOR JUDICIAL
NOTICE IN SUPPORT OF
MOTION TO DISMISS
COMPLAINT BY DEFENDANT
UNIFUND CCR PARTNERS**

Date: June 8, 2007
Time: 9:00 a.m.
Courtroom: 10 (19th Floor)

The Honorable Susan Ilston

1 Pursuant to Rule 201 of the Federal Rules of Evidence, defendant Unifund
2 CCR Partners hereby requests that this Court take judicial notice of the following
3 documents from the records of the Superior Court of California, County of
4 Stanislaus:

5 1. Complaint in the action entitled *Unifund CCR Partners Assignee of*
6 *Citibank v. Jason E. Davis*, Case Number 380735, a certified copy of which is
7 attached hereto as **Exhibit A**.

8 2. Answer in the action entitled *Unifund CCR Partners Assignee of*
9 *Citibank v. Jason E. Davis*, Case Number 380735, a certified copy of which is
10 attached hereto as **Exhibit B**.

11
12 DATED: May 1, 2007

SIMMONDS & NARITA, LLP
TOMIO B. NARITA
JEFFREY A. TOPOR

13
14
15 By: s/Tomio B. Narita

16 Tomio B. Narita
17 Attorneys for Defendants Unifund CCR
18 Partners and Steven A. Booska
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Exhibit A

STEVEN A. BOOSKA
Attorney at Law
250 Montgomery St, Ste 720
San Francisco, CA 94104
Telephone: (415) 397-4345
State Bar #107899

Attorney for Plaintiff

FILED

2006 MAY 31 PM 4:04

CLERK OF THE SUPERIOR COURT
COUNTY OF STANISLAUS

Barbara Rose

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF STANISLAUS

LIMITED CIVIL DIVISION

UNIFUND CCR PARTNERS
ASSIGNEE OF CITIBANK,

NO. 380735

Plaintiff,

COMPLAINT FOR MONEY

v.

JASON E DAVIS; DOES 1-10,

Demand: \$4,350.22

Defendants.

Plaintiff alleges as follows:

FIRST CAUSE OF ACTION

1. Defendants presently reside in the county in which this matter is brought and this Court is the proper court for the trial of this matter.

2. The true names and capacities, whether corporate, associate, individual or otherwise, of defendants DOES 1-10 inclusive, are unknown to plaintiff who therefore sues said defendants by such fictitious names and plaintiff will ask leave to amend this Complaint to set forth their true names and

COMPLAINT FOR MONEY - COMMON COUNTS

This case has been assigned to Judge *Vander Naal*
for all purposes including Trial.

1 capacities when the same are ascertained.

2 3. Plaintiff is informed and believes, and on such
3 information and belief, alleges that at all times herein
4 mentioned, each of the defendants was acting as the agent and/or
5 servant of each of the other defendants and all actions alleged
6 herein were within the course and scope of the defendant's
7 agency and/or employment.
8

9 4. This cause of action is not subject to the provisions
10 of Sections 1812.10 or 2984.4 of the Civil Code of the State of
11 California.

12 5. Within the last four years defendants, and each of
13 them, became indebted to plaintiff in the agreed sum of
14 \$4,350.22 for goods and/or services rendered to defendants, and
15 defendants then and there agreed to pay said amount to
16 plaintiff.
17

18 6. No part of said sum has been paid, although demand
19 therefor has been made, and there is now due, owing and unpaid
20 the sum of \$4,350.22 together with interest thereon at the rate
21 of 10% per annum from March 7, 2003.

22 SECOND CAUSE OF ACTION

23 7. Plaintiff realleges and incorporates herein by
24 reference each and every allegation contained in Paragraphs 1,
25 2, 3, 4, 5, and 6 of the First Cause of Action.

26 8. Within the last four years defendants, and each of
27 them, became indebted to plaintiff on a book account for a
28

1 balance due in the amount of \$4,350.22.

2 THIRD CAUSE OF ACTION

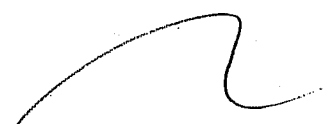
3 9. Plaintiff realleges and incorporates herein by
4 reference each and every allegation contained in Paragraphs 1,
5 2, 3, 4, 5, and 6 of the First Cause of Action.

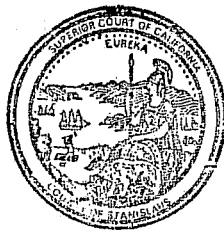
6 10. Within the last four years there was a written account
7 stated by and between plaintiff and defendants, and each of
8 them, whereby it was agreed that defendants were indebted to
9 plaintiff in the sum of \$4,350.22.

10 WHEREFORE, plaintiff prays judgment against defendants, and
11 each of them, as follows:

- 12
- 13 1. For damages in the sum of \$4,350.22;
 - 14 2. For interest in the sum of 7 percent per annum from
15 and after March 7, 2003;
 - 16 3. For other and further relief as the Court may deem
17 proper.

18 DATED: May 17, 2006

19 
20 STEVEN A. BOOSKA
21 Attorney for Plaintiff
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The foregoing instrument is a
correct copy of the original
on file in this office)

ATTEST: 4-23-07

Clerk of the Superior Court of the
State of California in and for the
County of Stanislaus

By Laura Altman Deputy

Laura Altman

Exhibit B

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Eric F. Fagan SBN #87071
 2220 Otay Lakes Rd. #502-84
 Chula Vista, CA 91915
 Phone: (619) 656-6656
 Fax: (775) 775-743-0307
 efagan@efaganlaw.com
 Attorney for Defendant Jason Davis

FILED
 06 JUL 10 AM 8:31
 CLERK OF THE SUPERIOR COURT
 COUNTY OF STANISLAUS
Julie Crawford

**SUPERIOR COURT FOR THE STATE OF CALIFORNIA
 COUNTY OF STANISLAUS**

UNIFUND CCR PARTNERS ASSIGNEE OF
 CITIBANK

Plaintiff,

vs.

JASON E. DAVIS; DOES 1-10,
 Defendants

Case No.: 380735

ANSWER

Defendant JASON E. DAVIS denies each and every allegation of Plaintiff's unverified complaint.

FIRST AFFIRMATIVE DEFENSE

Plaintiff's complaint and each count fail to state a cause of action against the defendant.

SECOND AFFIRMATIVE DEFENSE

Plaintiff's claim is barred by Code of Civil Procedure §337.

THIRD AFFIRMATIVE DEFENSE

Plaintiff's claim is barred by Code of Civil Procedure §339.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff's complaint and each count are based on a contract that is an adhesion contract, and as such, portions of it are unenforceable.

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FILED
 10 2006

FIFTH AFFIRMATIVE DEFENSE

Plaintiff's complaint and each count are based on a contract that is illusory, and thus unenforceable.

SIXTH AFFIRMATIVE DEFENSE

Plaintiff has failed to state a count upon which to base an award of attorneys' fees.

SEVENTH AFFIRMATIVE DEFENSE

Plaintiff's claim has been paid in full.

EIGHTH AFFIRMATIVE DEFENSE

Plaintiff is in violation of the Rosenthal Act. .

NINTH AFFIRMATIVE DEFENSE

Plaintiff is in violation of U.S.C. 15 §1692 et seq.

TENTH AFFIRMATIVE DEFENSE

Plaintiff lacks standing to sue.

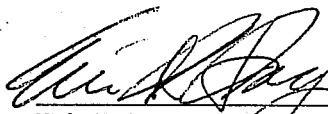
ELEVENTH AFFIRMATIVE DEFENSE

Plaintiff lacks capacity to sue.

Whereas defendant prays as follows:

1. That the plaintiff take nothing by its complaint,
2. For costs of suit,
3. For attorneys' fees, and
4. For other such relief as the Court may deem proper.

Dated: July 7, 2006


Eric F. Fagan,
Attorney for defendant Jason Davis

~~CERTIFICATE OF SERVICE~~

I, Dorian Hudson, declare that:

I am, and was at the time of the service hereinafter mentioned, at least 18 years of age and not a party to this action. My business address is 2220 Otay Lakes Rd. #502-84 Chula Vista, CA 91915. I am employed in San Diego County, CA.

I served the following:

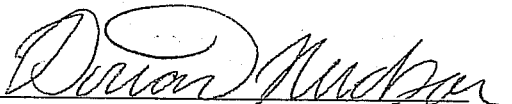
Answer

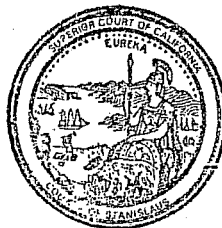
Superior Court of California, County of Stanislaus Case No. 380735

On July 7, 2006 by depositing copies thereof in the United States mail at Chula Vista, CA 91911 enclosed in a sealed envelope, with postage fully prepaid, addressed to:

Steven A Booska
250 Montgomery St. Suite 720
San Francisco, CA 94104

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed July 7, 2006 at Chula Vista, CA 91915.


Dorian Hudson



The foregoing instrument is a
correct copy of the original
on file in this office

ATTEST: 4-23-07

Clerk of the Superior Court of the
State of California in and for the
County of Stanislaus

By Laura Altman Deputy

Laura Altman